



JON M. HUNTSMAN, JR.
Governor

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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil Gas and Mining

JOHN R. BAZA
Division Director

December 14, 2007

CERTIFIED RETURN RECEIPT
7005 2570 0000 4801 8021

Stephan DeLong
190 E. 300 N.
Ivins, Utah 84738

Subject: Reassessment for Cessation Order #MC2007-28-01, Stephan De Long, Sunset (Rainbows End) Mine, S/053/032, Washington County, Utah

Dear Mr. DeLong:

The proposed civil penalty assessment for the above referenced cessation order was sent to you on October 30, 2007. At that time the abatement had not been completed and some of the facts surrounding the Cessation Order (violation) were not available. In accordance with rule R647-7-105, the penalty is to be reassessed when it is necessary to consider facts, which were not reasonably available on the date of the issuance of the proposed assessment. Now that the Cessation Order has been terminated (termination notice enclosed) the assessment can be completed. Following is the reassessment of the penalty for the cessation order:

- MC-07-28-01 Violation 1 of 1 \$352

The enclosed worksheet specifically outlines how the violation was assessed. You should note that good faith has now been considered and some points were awarded which reduces the penalty.

Under R647-7-106, there are two informal appeal options available to you:

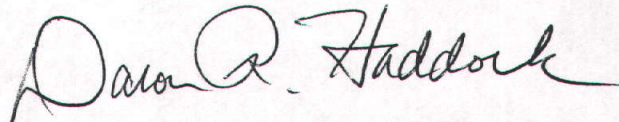
1. If you wish to informally appeal the fact of the Cessation Order, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of the cessation order will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the reassessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Thank you for your help in completing these important regulatory requirements. Please call me at (801) 538-5325 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Daron R. Haddock". The signature is fluid and cursive, with the first name "Daron" being more prominent than the last name "Haddock".

Daron R. Haddock
Assessment Officer

Enclosure: Worksheets

cc: Vickie Southwick, Exec. Sec.
Vicki Bailey, Accounting

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WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING
Minerals Regulatory Program

COMPANY / MINE Stephan DeLong/ Sunset (Rainbows End) PERMIT S530032
NOV / CO # MC-07-28-01 VIOLATION 1 of 1

REASSESSMENT DATE December 12, 2007

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *An Operator is required to post a reclamation surety/bond with the Division of Oil Gas and Mining prior to conducting mining operations. While the Operator had a small mine permit, a bond had not been posted for reclamation of this site. The permit fee has not been paid either. The operator had been notified numerous times of the requirement to post a bond (the last time by certified mail) but had failed to comply within the timeframe allotted. The site has been left unreclaimed for a number of years. While there is no particular harm to the environment as a result of the violation, if mining were allowed to continue without adequate surety, or if the site remained unreclaimed, damage would certainly occur. Because there is only the potential for this event to occur, I have assigned points in the "Unlikely" range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *Because mining has occurred without the appropriate surety, there is some potential for damage to occur. The site is small with very little disturbance, however there was some potential that the site would remain unreclaimed. It was also discovered that there was live dynamite left inside of the mine. This could present some danger to the public if the mine is left in this condition. Because there is only potential for damage, I am assessing points in the lower third of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS N/A

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 16

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

*** *The operator had been warned in several letters of the requirement to post bond. He had also been directed to reclaim the site by both the BLM and DOGM if a bond had not been posted. The operator had expressed his desire to reclaim the site, but had encountered health problems that precluded him from completing the work. Even with health problems, arrangements could have been made to reclaim the site or hire someone to take care of the reclamation responsibility. This indicates indifference to the rules or lack of diligence in complying with the rules and Division instruction. A prudent operator would understand the need to provide a surety and provide the required permit fees in a timely manner. The Operator was negligent in this regard, thus the assignment of points in the middle part of the negligence range.*

GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0

(Operator complied within the abatement period required)
(Operator complied with condition and/or terms of
approved Mining and Reclamation Plan)

*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of
abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does
the situation require the submission of plans prior to physical activity to achieve
compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| X | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| X | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| X | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay
within the limits of the NOV or the violated standard of the
plan submitted for abatement was incomplete)
(Permittee complied with conditions and/or terms of
approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS -8

PROVIDE AN EXPLANATION OF POINTS:

*** *The Operator did not have the equipment or the ability to complete the reclamation at this site. His health had precluded him from working at this altitude and he had been unable to find a contractor to do the reclamation work. Fortunately, the BLM had a crew that was available to work in this area and they were able to complete the reclamation. The Operator (Mr. Delong) was cooperative in getting the Washington County bomb squad to detonate the dynamite that had been left on site and also agreed to reimburse the BLM for the cost of reclamation on this site. The abatement was considered to be difficult because arrangements had to be made for getting equipment into the site. Although much of the credit should be given to the BLM for their efforts in getting reclamation completed, some good faith can be awarded to the Operator for his cooperation and help in getting the work done. I am awarded 8 points of good faith for normal compliance of a difficult abatement.*

V. ASSESSMENT SUMMARY (R647-7-103.3)

CESSATION ORDER # <u>MC-07-28-01</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>16</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>-8</u>
TOTAL ASSESSED POINTS	<u>16</u>
TOTAL ASSESSED FINE	<u>\$ 352</u>



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Page 1 of 1

VACATION / TERMINATION of Notice of Violation / Cessation Order

To the following Permittee or Operator:

Name: Stephan DeLong

Mailing Address: 190 E. 300 N. Ivins, Utah 84738

Mine Name: Sunset (Rainbows End) Permit Number: S530032

Utah Mined Land Reclamation Act, Section 40-8-1 et. seq., *Utah Code Annotated (1953)*:

Notice of Violation No. _____ dated _____, 20 ____

Cessation Order No: MC07-28-01 dated September 28,, 20 07

Part ____ of ____ is ☐ vacated ☒ terminated because: Reclamation of the site has been completed as required.

Part ____ of ____ is ☐ vacated ☐ terminated because: _____

Part ____ of ____ is ☐ vacated ☐ terminated because: _____

Date of service/mailling: December 12, 2007 Time of service/mailling ☒ a.m. ☒ p.m.

Permittee or Operator Representative

Title

Signature

Daron R. Haddock
Division of Oil, Gas & Mining Representative

Environmental Manager

Title

Signature

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190 E. 300 N.
IVINS, UTAH 84738